

Notice of Allowability

Application No.

10/823,253

Examiner

Zachary Skelding

Applicant(s)

REED ET AL.

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1-25-07, 2-22-07, 2-23-07, 2-27-07 and 3-2-07.
2. ☒ The allowed claim(s) is/are 142, 154 and 156-162.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 10-6-06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 2-27-07, 2-23-07
7. ☒ Examiner's Amendment/Comment 2-27-07
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other PTO-892.

Art Unit: 1644

DETAILED ACTION

1. Applicant's amendments to the claims filed January 25, 2007 and March 2, 2007 have been entered.

Claims 1-141, 143-153, 155, 163-168 have been canceled.

Claims 142, 156, 157 and 160-162 have been amended.

Claims 142, 154 and 156-162 are pending.

EXAMINER'S AMENDMENT

2. **Replace the title with the following:**
-- RECOMBINANT IL-9 ANTIBODIES --

REASONS FOR ALLOWANCE

3. The following is an Examiner's Statement of Reasons for Allowance:

Applicant's amendment to the claims and arguments have obviated the previous rejections of record. The instant anti-IL-9 antibodies appear to be free of the prior art. *Accordingly the instant claims are deemed allowable.*

The following post-filing date art is considered pertinent to applicant's claimed invention but has not been relied upon in a rejection: ClinicalTrials.gov Identifier: NCT00394654, "A Study to Evaluate the Efficacy of MEDI-528 on Late Asthmatic Response With Atopic Asthma," posted February 2007 at www.clinicaltrials.gov (cited herewith).

As stated by applicant in their remarks of March 2, 2007, the instantly claimed antibody encoded by the vector contained within in ATCC deposit No. PTA-5913 is the same as the "MEDI-528," which is the therapeutic agent being administered in the clinical trial referenced above. Thus, the instantly claimed antibody is currently being administered to patients as a pharmaceutical composition.


4. Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 1644

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachary Skelding whose telephone number is 571-272-9033. The examiner can normally be reached on Monday - Friday 8:00 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Zachary Skelding, Ph.D.
Patent Examiner
March 6, 2007


PHILLIP GAMBEL, PH.D., J.D.
PRIMARY EXAMINER
TZ 1600
3/6/07